



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 15, 1992

Ms. Georgia Flint
Acting Commissioner
Texas Department of Insurance
P. O. Box 149104
Austin, Texas 78714-9104

OR92-20

Dear Commissioner Flint:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14339.

You have received a request for proposals submitted in response to Texas Department of Insurance Request for Proposal TXISO-2. You claim the requested information is excepted from required public disclosure by sections 3(a)(4) and 3(a)(10) of the Open Records Act.

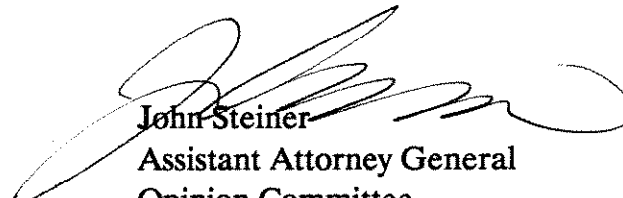
Section 3(a)(4) excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." The purpose of section 3(a)(4) is to protect governmental interests in commercial transactions. Open Records Decision No. 593 (1991) at 2. Section 3(a)(4) applies primarily to competition for governmental contracts and specifically protects the sealed bid process; decisions under section 3(a)(4) generally involve specific commercial and contractual matters. Open Records Decision No. 463 (1987). It has most often been applied to competitive bidding situations prior to the award of a contract. *See, e.g.,* Open Records Decision Nos. 541 (1990) at 4-5; 331 (1982); 232 (1979) at 4; 75 (1975).

You advise us that you are presently negotiating a contract with the successful respondent to TXISO-2 and that the contract is neither complete nor in

effect. You contend that release of the requested information would harm your agency's purchasing interests in this competitive situation. We agree. Accordingly, the requested information may be withheld from required public disclosure under section 3(a)(4) of the Open Records Act. As we resolve this matter under section 3(a)(4), we need not address the applicability of section 3(a)(10) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-20.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/GK/lcd

Ref.: ID# 14339
ID# 14435

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